

Exhibit A
(2 pages)

1992 U.S. Dist. LEXIS 13797, *; 1992 AMC 2051

ACTION CORPORATION Plaintiff vs ZIM-AMERICAN ISRAELI SHIPPING CO., INC. and
INSURANCE COMPANY "Z" Defendants

CIVIL 91-2439CCC

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

1992 U.S. Dist. LEXIS 13797; 1992 AMC 2051

March 12, 1992, Decided

March 13, 1992, Filed

DISPOSITION: [*1] Accordingly, we find that removal was proper and DENY plaintiff's motion.

COUNSEL: For Plaintiff: Luis Barcelo-Gener, Esq.

For Defendants: Juan A. Lopez-Conway, Esq., CALVESBERT & BROWN.

JUDGES: CEREZO

OPINION BY: CARMEN CONSUELO CEREZO

OPINION

ORDER

This breach of contract and damage is before us on plaintiff's Opposition to Removal filed on January 27, 1992 (docket entry 5), which is, in essence, a motion to remand. Plaintiff objects on the grounds that the Superior Court of Puerto Rico has concurrent jurisdiction with the federal court under "saving to suitors" clause of Article 9 of the Judiciary Act of 1879. 28 U.S.C. § 1333(1).

Defendant pointed in its reply (docket 31) that the contract for ocean carriage of cargo in foreign commerce is regulated by the Carriage of Goods by Seas Act (COGSA), 46 U.S.C. § 1300-1315, and therefore creates an independent ground for jurisdiction, other than admiralty. *See Uncle Ben's v. Hapag-Lloyd Aktiengesellschaft*, 855 F.2d 215, 217 (5th Cir. 1988). (The governing act is federal legislation regulating commerce and, as such, action involving its provisions could have been originally brought in federal court and, thus was removable.) This has not been refuted [*2] by the plaintiff.

Accordingly, we find that removal was proper and DENY plaintiff's motion.

SO ORDERED.

At San Juan, Puerto Rico, on March 12, 1992.

CARMEN CONSUELO CEREZO

United States District Judge

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